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Attorney for Defendant
BERNARD THOMAS, JR.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No. CR 05-0507 WHA

Plaintiff,

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE MOTION
HEARING**

vs.

BERNARD THOMAS, JR.,

Defendant.

IT IS HEREBY STIPULATED by and between the parties hereto through their respective counsel, PHILIP KEARNEY, Assistant United States Attorney for Plaintiff, and ELENA CONDES, Attorney for Defendant, BERNARD THOMAS, JR., that:

1. Defendant's counsel, Elena Condes, is currently scheduled to begin a no-time waiver trial in Merced County on June 13, 2006, wherein time runs on June 20, 2006. The trial calendar begins at 10:00 a.m. and I don't believe that I can assigned out to a courtroom and be back in San Francisco in time for the 2:00 p.m. calendar. The trial was supposed to begin on June 6, 2006, but the District Attorney was ill and asked the trial be continued to June 13, 2006. The trial is expected to continue through June 19, 2006.

2. Counsel for both parties have been waiting for Defendant's pre-plea criminal history report which we received on Monday, June 5, 2006, and counsel for both parties require additional time to finalize the terms of a plea agreement.

3. The continuance will allow for continuity of counsel.

4. Based on the foregoing, the government has authorized defendant's counsel to

1 enter the electronic signature below.

2 5. Time shall be excluded as the interests of justice served by taking such action
3 outweigh the best interest of the public and the defendant in a speedy trial. Excluding time would
4 allow counsel for defendant the reasonable time necessary for effective preparation, taking into
5 account the exercise of due diligence. Accordingly, the parties agree that time shall be excluded
6 through the next status conference, pursuant to the provisions of the Speedy Trial Act, 18 U.S.C.
7 §3161(h)(8)(A) and (B)(iv).

8 6. Accordingly, the Motions Hearing currently scheduled for June 13, 2006, shall be
9 continued to June 20, 2006, at 2:00 p.m.

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11 Dated: June 9, 2006

Respectively submitted,

LAW OFFICES OF ELENA CONDES

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14 /S/
15 Elena Condes, Attorney for Defendant,
BERNARD THOMAS

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18 KEVIN V. RYAN
United States Attorney

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20 /S/
21 By: PHILIP KEARNEY, Assistant United
States Attorney

~~-(PROPOSED)-~~ ORDER

Based upon the above Stipulation, and for good cause appearing, THE COURT HEREBY ORDERS THAT:

The hearing date on defendant's motion for discovery and disclosure of exculpatory evidence is continued to **June 20, 2006**, at 2:00 p.m. and that the time between June 13, 2006, and June 20, 2006, is excluded from the speedy trial calculation pursuant to 18 U.S.C. §§3161(h)(1)(F) and 3161 (h)(8)(B)(iv).

SO ORDERED.

Dated: June 13, 2006